

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ABBOTT LABORATORIES,)	Case No. 08cv1525-H (BLM)
)	
Plaintiff,)	ORDER (1) DENYING MOTION FOR
)	EXPEDITED BRIEFING SCHEDULE
v.)	AND (2) SETTING HEARING DATE
)	AND BRIEFING SCHEDULE FOR
SCANTIBODIES LABORATORY, INC.,)	PLAINTIFF'S MOTION TO COMPEL
)	
Defendant.)	[Doc. No. 4]
)	

On August 22, 2008, Plaintiff filed an *ex parte* motion for an expedited briefing schedule on a motion to compel. Doc. No. 4 (motion for briefing schedule); Doc. No. 1 (motion to compel). Specifically, Plaintiff requests that a hearing on the motion to compel be held on September 4, 2008, with Plaintiff's reply due two days before the hearing, on September 2. Plaintiff requests the accelerated schedule to permit it to acquire the information sought before the close of fact discovery on September 26, 2008.¹ Doc. No.

¹The instant discovery dispute arises from litigation occurring in the Northern District of Illinois. Doc. No. 1. The motion to compel is the sole issue before this Court, and is in the Southern District of California because the subpoenas to which Defendant is allegedly unresponsive were issued from this district. Therefore, when Plaintiff refers to the close of fact discovery, it refers to the close of discovery in the underlying Illinois litigation.

1 4 at 1. Defendant opposes Plaintiff's motion. Plaintiff's motion
2 is **DENIED** for the following reasons.

3 First, Plaintiff's citation to the pending close of fact
4 discovery in the underlying Illinois case (Doc. No. 4 at 1) is not
5 persuasive. Much of the discovery that Plaintiff seeks to compel
6 was requested four months ago, in April 2008. Id. Presumably
7 Plaintiff was aware of the September close of discovery at that
8 time. Although the Court recognizes Plaintiff's efforts to obtain
9 the information from other sources (id. at 3), Plaintiff cannot wait
10 until the eleventh hour to file its motion to compel, and then
11 request both the Court and Defendant to accommodate last-minute
12 efforts to meet a long-anticipated deadline.

13 Second, Plaintiff's proposed schedule permits the Court only
14 two days prior to the hearing in which to consider the fully-briefed
15 motion to compel, and this is insufficient.² See CivLR 7.1(e)
16 (unless the court orders otherwise, reply brief must be served not
17 later than five court days prior to the hearing). The motion for an
18 accelerated briefing schedule is thus **DENIED**, and the following
19 dates are set.

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26 A hearing date of September 17, 2008 at 3:00 p.m. is assigned

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28 ²Plaintiff also contacted the Court via telephone to request that the hearing on the motion to compel be set for September 11, 2008, with Defendant's reply due on September 9. This schedule, too, permits the Court only two days in which to consider the fully-briefed motion.

1 for Plaintiff's motion to compel. Any opposition to the motion to
2 compel must be filed on or before September 8, 2008. Plaintiff
3 shall file any reply on or before September 11, 2008.

4 **IT IS SO ORDERED.**

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6 DATED: September 2, 2008

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8 BARBARA L. MAJOR
9 United States Magistrate Judge

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11
12 COPY TO:

13 HONORABLE MARILYN L. HUFF
14 UNITED STATES DISTRICT JUDGE

15 ALL COUNSEL AND PARTIES
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